

August 12, 2016

VIA FACSIMILE

Honorable Elizabeth A. Wolford
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

Re: *Abreu v. Farley, et al.*
Case No. 11-cv-06251 (EAW)

RECEIVED
ELIZABETH A. WOLFORD

AUG 12 2016

United States District Judge
Western District of New York

Dear Judge Wolford:

We write to update the Court on the status of our efforts regarding the Defendants' pending Motion for Plaintiff Abreu to certify his approval of the opposition papers filed on July 15, 2016 ("Motion"). As stated in our letter of July 20, we had a conference with Mr. Abreu on that day, and he stated that he had received copies of the filed pleadings. We advised the Court that if we receive any further comments or communications from Mr. Abreu relating to the opposition papers, we will promptly advise the Court.

Great Meadow Correctional Facility adheres strictly to DOCCS Directive 4423 regarding Inmate Telephone Calls. Under Section IX(B)(5), attorneys may not have a legal call with an inmate less than 30 days after a previous call. In light of the July 20 telephone conference, we could not schedule a telephone conference with Mr. Abreu until at least August 19 – three days after the August 16 due date for the response to Defendants' Motion.

In light of this restriction, we asked Assistant Attorney General Hillel Deutsch if he would be willing to assist us in arranging an exception to Directive 4423 so that we could speak with Mr. Abreu and confirm his approval of the opposition papers. Mr. Deutsch contacted Great Meadow on our behalf, and we were permitted to request a conference with Mr. Abreu for today, August 12.

Yesterday, we received the following voicemail from an inmate counselor at Great Meadow:

Hi, this is Jessica calling from Great Meadow Correction Facility.
I'm calling regarding the phone call you have scheduled with
Carlos Abreu tomorrow morning. I spoke with security on that unit

E-mail: Wendell.Harris@leclairryan.com
Direct Phone: (585) 270-2107
Direct Fax: (585) 270-2167

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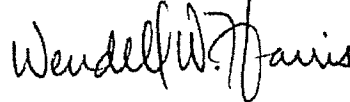
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this morning and they informed me that he is not allowed out of his cell at all for anything until further notice and they said maybe try and reschedule in a week or two and then maybe that restriction will be off of him. So I guess just send back in the paperwork for late next week or the week after and, hopefully, we can accommodate the call for then. Thank you.

To date, the only response from our client regarding his approval of the opposition papers – either in writing or orally – is his letter sent to us and to the Court that was received today stating, “send me a letter, the which I can sign it alleged that I approve the papers.” (ECF No. 99 at 4). It is unclear, however, given the grammatical errors whether Mr. Abreu is approving the papers as filed. In light of the security restriction on Mr. Abreu, we request a two-week extension on Plaintiff’s response to the Motion so that we may schedule a telephone conference and get confirmation from our client. If we receive any further comments or communications from Mr. Abreu relating to the opposition papers prior to a telephone conference, we will promptly advise the Court.

We are available to discuss the matter at the Court’s convenience.

Respectfully submitted,



Wendell W. Harris

Plaintiff's Response is now due by August 30, 2016.
Defendants' Reply is now due by September 6, 2016.

cc Hillel Deutsch, Esq.

SO ORDERED

s/ Elizabeth A. Wolford

ELIZABETH A. WOLFORD
United States District Judge

Date 08/12/2016